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Paper No. 11

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OFFICE OF PETITIONS

In re Application of

Ressemann and Petrick

Application No. 09/778,988

Filed: February 7, 2001

Attorney Docket No. TER1002USD1

DECISION ON PETITION

*Response due:  
10/9/04*

This is a decision on the petition under 37 CFR §1.137(b), July 23, 2003, to revive the above-identified application.

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition" under 37 CFR 1.137(b)."

The application became abandoned for failure to file a proper response to the final Office action mailed August 14, 2002, that set a shortened statutory period for reply of three months from its mailing date. A response was filed on October 15, 2002, but failed to place the application in condition for allowance. No further responses were received within the allowable period, and the application became abandoned on November 16, 2002. A Notice of Abandonment was mailed on June 17, 2003.

Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a non-provisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee, or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The instant petition does not satisfy the requirements of item (1) above.

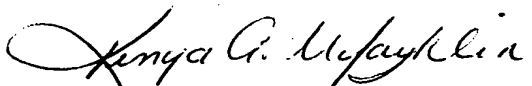
As to item (1), Examiner Suzette Jackson has determined that the amendment filed July 23, 2003, failed to place the application in condition for allowance. Any renewed petition filed must be accompanied by an amendment that places the application in condition for allowance or a Request for Continued Examination pursuant to 37 CFR 1.114.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents  
United States Patent and Trademark Office  
Box 1450  
Alexandria, VA 22313-1450

By facsimile: (703) 872-9306  
Attn: Office of Petitions

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 305-0010.



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